

Democrats were in charge before, they didn't even suggest that.

Now, the truth is, where unions choose to participate in a democratic process and make their case to the workers in an atmosphere of open debate, the system is fair and they are more than capable of success. Their unprecedented level of recent success plainly makes this point. Moreover, it does not remotely justify changing a process that has worked for more than 60 years. It certainly does not justify any change that strips workers of their democratic rights. In light of organized labor's unprecedented electoral success over the last 10 years, this bill is like a baseball hitter who is on a decade-long hot streak and batting .620, insisting that the game is unfair and that the pitcher's mound has to be moved back.

The claim that the employers are violating the law with increased frequency and making fair elections impossible is equally incorrect. In fact, the incidents of even alleged but unproven employer misconduct have actually dropped steadily and dramatically over the last 10 years.

That is what this chart shows. The current rate of alleged employer unfair labor practices represents a drop of nearly 24 percent compared to 1990; a staggering 42 percent when compared to 1980.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ENZI. I see there is another Senator left to speak here. I have a lot left to say. This is a very important issue. A lot more needs to be said when we are faced with a proposal to take away away the right to a secret ballot in a bill deceptively called the Free Choice Act. It should correctly be called the Union Intimidation Act.

I will reserve the remainder of my remarks and speak again a little later. When I speak later, I will ask the RECORD not show an interruption.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I ask unanimous consent to be permitted to speak as in morning business for up to 10 minutes.

The ACTING PRESIDENT pro tempore. That is the order. The Senator is recognized.

(The remarks of Mr. BOND pertaining to the submission of S. Res. 252 are located in today's RECORD under "Submission of concurrent and Senate Resolutions.")

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Ohio is recognized.

EMPLOYEE FREE CHOICE ACT

Mr. BROWN. Madam President, as we debated energy and immigration issues in this body for the last 3 weeks, there has been palpable anxiety that we all see in our States, we all see in our

homes, about our economy and about the future of the middle class—the squeeze on the middle class, the declining or stagnant wages of way too many middle-class households. In 2005 the real median household income in America actually went down 3 percent, from the year 2000. In Ohio it was down almost 10 percent. The average CEO makes 411 times the wage of the average worker; in 1990 the average CEO made 107 times as much. We know what has happened.

More important, we need to look at what has happened to wages in this country in a historical sense in the last 60 years. From 1947 to 1973, when our country, after World War II, was growing, you can see how wages grew among different people in our economy. The bar on the left is the lowest 20-percent wage earners, up to the highest 20-percent wage earners.

So those are the lowest wages. The lowest incomes in our country saw their wages grow the fastest of any one of those groups.

From 1973 until 2000, you can see the increase. Every group still increased, but growth changed sharply. The lowest 20 had the lowest economic growth; the highest 20 percent had the highest. I would add, 1973 was the year we went from a trade surplus in our country to a trade deficit. In other words, before 1973, we exported more goods in terms of dollars, in terms of value, than we imported.

Since 1973, that number has gone the other way. It has gone dramatically the other way in the last 10 or 15 years. Now, since President Bush took office in 2000, we have seen an even greater change in income for all Americans. The lowest 20 percent had an annual decrease, as I mentioned earlier, but so did the second quintile, the middle, the slightly upper middle, and the top 20 percent all had income decline. The only group that had an income increase in this 5-year period or so was the top 1 percent.

We have seen clearly that our economy is not working the way it should for middle-class Americans. That is why there is such anxiety among middle-class Americans. That is why so many of us who were elected for the first time, including the Presiding Officer, to the Senate in the year 2006, we knew of that anxiety and talked about middle-class issues: about health care, education, about jobs, about trade, about income.

Here is the real story. Since around the time of the trade deficit, the trade surplus prior to 1973 turning into the trade deficit, we have seen wages and productivity go like this. For many years, from World War II, for about 25 years, if you were a productive worker, your wages reflected your productivity. In other words, the more money you created for your employer, the more you shared in the wealth you created.

That was the American way. That is how you build a middle class. You are more productive and you share in the

wealth you create. But something happened in the early 1970s. Again, in 1973 we went from a trade deficit to a trade surplus. We can see from about that time on, that productivity in this country kept rising, but wages in our country have been relatively flat.

One other thing happened, in addition to in 1973 going from a trade surplus to trade deficit, that was the time with the most pronounced decline in unionization. As Senator KENNEDY pointed out earlier today, as we have seen fewer people who are organized into unions, we have seen more stagnation of wages, even with productive workers.

With the decline in unionization and with the trade deficit, wages have stayed relatively flat. That is why we need a very different trade policy. That is why we need the Employee Free Choice Act.

I might point out the Employee Free Choice Act does not abolish the secret election process. That would still be available. The bill simply enables workers to form a union through majority sign-up, if they prefer that method. So workers under current law may use the majority sign-up process only if their employers say yes. We think workers should make that determination, that we either want an election or we would like to do the simple card check. That will, in fact, increase unionization. We will also see that it will mean more mirroring of productivity in wages.

I would like to shift for a moment to some of my earlier comments about how in 1973, as we went from trade surplus to trade deficit, some of the things that happened in our economy. We know, going back not quite as far as 1973, only 15 years ago, the trade deficit in this country was \$38 billion the year I first ran for the House of Representatives down the hall.

Today, the trade deficit in our country exceeds \$700 billion. It has gone from \$38 billion to \$700-plus billion. President Bush, the first, said \$1 billion in trade deficit translates into 13,000 jobs—\$1 billion in trade deficit translates into 13,000 jobs. So do the math. We now have a \$700 billion-plus trade deficit. We know what kind of havoc that wreaks on Steubenville, Toledo, and Portsmouth, Marion and Mansfield and Springfield and Xenia and Zanesville and all of these communities that were industrial towns that have had such damage done to their communities. They have had plant closings, they have had layoffs. Every time a plant closes, it means fewer firefighters, fewer police officers, fewer teachers in the public schools. We know what that does to our quality of life.

So the answer from the Bush administration, as we passed NAFTA and PNTR with China and CAFTA and every other trade agreement, as this trade policy has clearly failed, is: Let's do more of it. Let's do more trade agreements.

So now the President is likely going to bring in front of this body a trade agreement with Peru and a trade agreement with Panama. The President's U.S. Trade Representative, Susan Schwab, an honorable woman, straightforward, candid when you talk to her about this, she says: Yes, but now we have environmental and labor standards in these trade agreements.

But there are a couple of problems with that. First of all, we do not yet. We have not seen the text of the agreements. We have not seen, in fact, nor are we at all certain, that the labor and environmental standards will be inside the agreements; they may be side agreements. We tried that once with the North American Free Trade Agreements. The labor and environmental standards were outside the agreements. They were in a special side agreement, and they had virtually no impact. Where we had a trade surplus with Mexico when NAFTA was signed a decade and a half ago, now our trade deficit with Mexico is some \$70 billion.

That same trade situation has exploded to a huge trade deficit with Canada also. So clearly we know in our communities how many plants have closed and companies have and jobs have moved to Mexico.

So the second thing we know about Jordan, about the trade agreements with Peru and Panama, the proposed agreements, is that the Secretary says they will enforce these labor and environmental standards as they unveil them, again not specific, not in writing yet.

The lesson again from this administration is when Congress, in the year 2000, passed the Jordan trade agreement, there were strong labor and environmental standards in that agreement. But when his U.S. Trade Representative, Mr. Zoellick, assumed his position at USTR, Mr. Zoellick sent a letter soon after to the Government of Jordan saying he was not going to, because of the dispute resolution, he was not going to enforce the labor and environmental standards.

Jordan has since pretty much become a country of sweatshops, where Bangladeshi workers, many workers imported from Bangladesh work at sub-standard wages and terrible conditions in sweatshop-like atmospheres and use Jordan as an export platform.

All of that tells me our trade policy simply is not working. If we are going to get serious about building the middle class—we spent a lot of time yesterday in Senator ENZI's committee, and Senator KENNEDY's committee, we passed legislation on higher education, the reauthorization of the Higher Education Act, passed bipartisanship. Senator ENZI showed great leadership, as did Senator KENNEDY and others. We need to do better to make education affordable for the middle class.

We need to do better with health care and better with prescription drug benefits. We need to continue to keep up with the minimum wage. We raised the

minimum wage earlier this year. All of those things are important. But at the same time, two of the most important things that this body needs to do is to pass the Employee Free Choice Act to give the tens of millions of workers in this country who want to join a union the opportunity to organize and bargain collectively because it will mean higher wages and higher benefits. History absolutely proves that.

The other thing we need to do is to understand we need a very different trade policy, not more of the same, not Panama, not Peru, not Colombia, the way these agreements are written, not South Korea, the way that agreement is written, but agreements that serve the middle class, that lift up workers in the United States and lift up workers of our bilateral trading partners. Because we know that our trading policies will not be judged effective until the poorest workers in the poorest countries in the world are not just making products for Americans to use but that those workers are actually able to buy those products themselves.

We have seen that. Where we do trade right, we know it can work. We have clearly seen a trade policy that has failed. It is important, as this Congress looks at the trade agreements coming forward, Panama and Peru, and looks at trade promotion authority, legislation that may come in front of this body sometime this summer, that we keep our eye on looking at what has failed in trade policy and what has worked.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Wyoming.

EMPLOYEE FREE CHOICE ACT

Mr. ENZI. Madam President, I am fascinated to listen to some of these discussions to find out we can change the balance of trade if we took away the right of employees to decide by secret ballot if they do or do not wish to be represented by a union.

I also heard the argument, that pay and benefits would go up if we took away the Democratic right to a secret ballot. Fascinating. Fascinating. But, also, not true. You cannot take away rights from people in America and expect them to be happy about what is happening to them.

Now, I did see the Senator from Ohio in some national news broadcasts thanking one of the major unions for putting the Democrats in power; and, as a result, saying that they were willing to bring up this bill that would take away the right to a secret ballot. I don't think that is how things are supposed to work in America.

I began earlier and talked about several of the problems with taking away this right to a secret ballot under the Employee Free Choice Act—legislation that I believe should properly be called the Union Intimidation Act because that is exactly how it is going to work.

Previously I was discussing this myth rampant employer misconduct;

and noted that contrary to these claims even allegations of misconduct have dropped significantly.

The truth is that the National Labor Relations Board scrupulously monitors the behavior of all parties during the entire period of a union-organizing campaign. Any misconduct by an employer that interferes with the employees' free choice in the election process is automatic grounds, automatic grounds, to set aside and rerun an election.

Now such misconduct not only includes any employer unfair labor practice, but it also includes even less serious transgressions, such as an employer's inadvertent failure to provide the union with the names and home addresses of all of its eligible employees in a timely manner.

Every word that is uttered and every act that takes place during a union organizing campaign is subject to National Labor Relations Board review and scrutiny. If a party's words or conduct, clearly including the commission of any unfair labor practice, in any way disturbs the "laboratory conditions" required for an election, the NLRB is empowered to set aside the election and require it to be rerun.

However, the fact is only about 1 percent of the National Labor Relations Board elections are rerun each year because of the misconduct of either employers or unions. So you notice I am not saying this is all one-sided, that there are two sides to it. There are some that are set aside because of union misconduct.

Now, just like the number of unfair labor practice charges, this figure, has been steadily declining as well. The secret ballot election and entire union election process is remarkably fair, heavily scrutinized and monitored and tightly regulated.

Where an employer acts improperly over the course of a union campaign and adversely affects the outcome of the election, the National Labor Relations Board has full authority to set aside that election and order it to be rerun.

In addition, in those instances where an employer engages in misconduct that has the effect of dissipating a union's card majority, the law already allows the National Labor Relations Board to certify the union and require the employer to recognize and bargain with that union. This has been the law for nearly 40 years. The claim that employers are increasing violating the law is totally inaccurate.

What unions and their supporters would like—indeed, what they hope—to accomplish by this legislation is to characterize any expression of opposition to unionization as misconduct and choke it off. Fortunately, however, we do not live in a totalitarian country. We live in a country that protects free speech and fosters the open debate of ideas. It is for those reasons, rooted in the Constitution and the Bill of Rights,